HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 690 OF 2006

BETWEEN

The Regional Vigilance and Enforcement Officer,

Rajahmundry & others

.....Appellants

And

M. Krishna Rao & others

.....Respondents

Counsel for the Appellants : Government Pleader for

Industries and Commerce

Counsel for Respondent No.1 : Smt N. Shoba

Dated: 20.06.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 21.04.2006 whereby while allowing Writ Petition No.5794 of 2005 filed by respondent No.1 questioning seizure of his vehicle and directing its release, the learned Single Judge imposed cost of Rs.25,000/- with a direction that Rs.5,000/- shall be paid to the writ petitioner in lieu of the damages for the legal injury caused due to the action of the respondents and the remaining amount of Rs.20,000/- be deposited with the Andhra Pradesh State Legal Services Authority and also directed that the amount be recovered from the officer/officers responsible for the illegal and incompetent appropriation and deprivation of petitioner's lorry.

We have heard learned Government Pleader for Industries and Commerce and Mrs. N. Shobha, learned counsel for respondent No.1 (writ petitioner).

In our opinion, the view expressed by the learned Single Judge on the legality of the seizure of the vehicle belonging to respondent No.1 is legally correct and does not call for interference. As a matter of fact, learned Government Pleader did not seriously press this part of challenge against the order of the learned Single Judge. He, however, argued that the observations made by the learned Single Judge in the last three paragraphs of the impugned order and imposition of cost of Rs.25,000/- with a direction to recover the amount from the officer/officers responsible for the alleged illegal and incompetent appropriation and deprivation of the writ petitioner's lorry is liable to be set aside because such an order could not have been passed without giving an opportunity of hearing to the persons concerned. Learned Government Pleader pointed out that the writ petitioner had not impleaded the officer/officers who seized his vehicle as party respondents and as such they did not get opportunity to controvert the allegation of mala fide exercise of power.

Mrs. N. Shobha, learned counsel for respondent No.1 fairly stated that

her client had not impleaded the officers concerned as parties by name.

In our opinion, while holding that the action of the official respondents to seize the vehicle of the petitioner was arbitrary and legally untenable, the learned Single Judge ought not to have cast aspersion on the officers of the department ignoring the fact that none of them was party to the writ petition. We are further of the view that in the circumstances of the case, the award of the cost to the writ petitioner is legally unsustainable.

In the result, the appeal is partly allowed. The order of the learned Single Judge directing release of the vehicle of respondent No.1 is upheld. However, the direction for imposition of cost of Rs.25,000/- and recovery thereof from the officer/officers responsible for the alleged illegal and incompetent appropriation and deprivation of petitioner's lorry is set aside.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

20.06.2006

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